

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DAYKOTA AUSTIN KONECNY,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TINA KONECNY and ROBERT PARTLOW,

Respondents-Appellants.

UNPUBLISHED

March 1, 2005

No. 256588

Midland Circuit Court

Family Division

LC No. 03-001784-NA

Before: Talbot, P.J., Whitbeck, C.J., and Jansen, J.

PER CURIAM.

Respondents Tina Konecny and Robert Partlow appeal as of right from the trial court order terminating their parental rights to the minor child pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

I. Basic Facts And Procedural History

Konecny and Partlow are the biological parents of the four-year-old minor child. They did not live together until shortly before these proceedings commenced. Konecny was nineteen years old when the minor child was born, and Partlow was thirty-four years old. Konecny cared for the minor child from birth to approximately age eighteen months or two years, and Partlow cared for him from approximately age two to age four while Konecny moved to Jackson to work as a topless dancer. Mental health services notes from this time indicated that Partlow controlled the minor child by making the minor child afraid of him. Partlow eventually became unavailable for services.

Konecny had two other children by different fathers during the time the minor child lived with Partlow. She left her daughter, two-year-old Trinity, in the care of her cousin, and her son, three-year-old Chase, in the care of his father. Chase was eventually placed under a guardianship. Konecny and Partlow reunited in autumn 2002 and cared for the minor child together, but their relationship was characterized by alcohol abuse and verbal and physical abuse, which the minor child witnessed. Mental health services to assist with parenting skills were reinstituted.

Numerous referrals regarding the family had been made over the years, beginning with allegations of environmental neglect, medical neglect, and alcohol abuse by Konecny on March 24, 1999, August 12, 1999, and July 24, 2000. Referrals were made on June 12, 2002 for domestic violence between Konecny and Partlow, September 24, 2002 for the minor child's improper supervision, October 2, 2002 for the minor child's physical abuse, December 29, 2002 for Partlow's DUIL endangering the minor child, and February 12, 2003 for the minor child's physical abuse.

This child protective proceeding commenced after Midland County Protective Services received additional referrals alleging marks and bruises on the minor child in March 2003 and April 2003. Protective services worker Cheryl Fischer received information alleging that Partlow gave the minor child a bloody lip on March 17, 2003, bruised him on the cheek on April 15, 2003, and hit him on the ear with a hairbrush on April 16, 2003. The minor child verified two allegations of physical abuse, and Fischer filed a petition on April 21, 2003 requesting the minor child's temporary wardship and recommending his placement with Konecny.

Families First services were provided from early April 2003 to May 18, 2003. The Families First worker believed that the minor child was very bonded to Konecny, but noted that when attending a court hearing, the minor child told both the worker and the guardian ad litem, "I don't want to go by my dad, he's mean and hits me." Konecny and Partlow were scheduled for eviction because they were \$3,000 behind in payments, and had other past due bills. On April 18, 2003, Konecny separated from Partlow and moved to a shelter with the minor child.

The trial court authorized the petition on April 21, 2003, ordering the minor child placed with Konecny and prohibiting any contact between the minor child and Partlow other than at visits supervised by the agency. Partlow objected to the minor child's placement with Konecny, stating that he was not "in good hands" with her. Konecny and Partlow were appointed separate counsel.

Konecny moved into a trailer and, despite the trial court's order, allowed Partlow to have contact with the minor child there. On one occasion, when a mental health worker was present, the minor child said he was afraid to go to the bathroom because Partlow was hiding in the back of the trailer, but the worker never verified that Partlow was present. Konecny and Partlow took the minor child to Indiana together on May 29 and 30, 2003. Partlow's neighbor told protective services that Konecny, Partlow, and the minor child had been together in her trailer, and on one occasion began fighting and were asked to leave. Konecny admitted to the Families First worker that she allowed Partlow into her home. According to Partlow, Konecny occasionally asked him to help manage the minor child's behavior because she was unable to handle the minor child alone.

Fischer filed an amended petition on May 19, 2003 and a second amended petition on June 4, 2003, requesting that the minor child be removed from Konecny and placed in foster care. At the June 4, 2003 hearing, Fisher testified to the incidents of unauthorized contact between Partlow and the minor child, and recommended counseling for the minor child after seeing the minor child throw a severe tantrum that escalated into threats of self-mutilation when Konecny tried to discipline him appropriately. The trial court found probable cause to believe that unsupervised contact was occurring, and ordered the minor child removed and placed in foster care. It also ordered counseling for the minor child. The minor child was briefly placed in

two foster homes that were unable to handle his behavior, but he remained in his third foster home throughout the rest of this proceeding.

Fischer filed a third amended petition on June 23, 2003, adding allegations that Konecny and Partlow admitted taking the minor child to Indiana together in May 2003, and that Konecny told various service providers that she allowed unauthorized contact between Partlow and the minor child. Konecny and Partlow pleaded no contest to Partlow striking the minor child in 2003 because the minor child swore at him, to Partlow being arrested for DUIL with Konecny and the minor child in the car in December 2002, to taking the minor child to Indiana against court order in May 2003, and to having domestic discord and anger issues. They also admitted to receiving Families First services, intensive in-home services, law enforcement services, financial Family Reunification services, substance abuse treatment, counseling, and FOCUS services. The trial court assumed jurisdiction over the minor child, and suspended visits between the minor child and Partlow.

Psychologist Randall Christensen evaluated Konecny and Partlow and the minor child on July 31, 2003. Partlow stated that he had bipolar disorder or ADHD and was unable to hold a job. He said he was sexually abused at age four or five, and physically abused by his father. He denied heavy alcohol use, but admitted using marijuana until November 2002. He had been arrested twice for domestic violence and three times for DUIL. Christensen found that Partlow was not credible in providing his history and background information, although he performed within the normal range of intellectual functioning.

Christensen observed that Partlow's personality included traits from several disorders and described Partlow as immature, self-centered, highly manipulative, overly sensitive to the way others treated him, and insensitive to his treatment of others. He had difficulty regulating his mood, was suspicious of the intentions of others, and was viewed by others as hostile, inflexible, and prone to blame others for his mistakes. Partlow had chronic problems with interpersonal relationships, and had a "substantial anger management problem." Christensen did not believe Partlow's denial of alcohol use and recommended a substance abuse assessment. With regard to parenting, Christensen concluded that Partlow was prone to temper outbursts, was unpredictable, used erratic and unpredictable discipline, had difficulty seeing the impact of his words and actions on a child, and was likely insensitive to a child's needs. The prognosis for improvement through counseling was poor given Partlow's paranoia, unwillingness to take responsibility for his actions, and projection of blame on others.

With regard to Konecny, the background history she provided to Christensen indicated that she had demonstrated behavioral problems as a child, including hitting a principal, stealing at age ten, and assaulting a police officer at age thirteen. She did not finish high school. She admitted using alcohol heavily during her pregnancies and to using marijuana since age fifteen. She was three months pregnant at the time of the evaluation, yet admitted to recently becoming intoxicated. She tested in the normal range for intelligence.

Christensen described Konecny as immature and impulsive with borderline paranoid personality traits. She experienced chronic depression and problems with anger management and substance abuse. In parenting, Christensen expected Konecny to become easily overwhelmed and highly stressed over minor problems, and prone to being impulsive, angry and immature in her behavior. Konecny had difficulty seeing the impact of her behavior and

decisions on the minor child, and had weak protective instincts. Christensen expected Konecny's rules and discipline would be inconsistent and erratic and her child to be at risk of developing emotional and behavioral problems. Christensen recommended a substance abuse assessment and counseling, although he predicted minimal progress while Konecny and Partlow maintained their dysfunctional relationship. He noted that parenting classes would not improve Konecny's parenting skills until she matured.

Christensen's evaluation of the minor child revealed that he had a history of self-abusive behavior and aggression toward other people and animals. He was extremely afraid of bugs and spiders and of someone coming in the house and hurting him. He stated that Partlow used to hit him and intentionally scare him by putting on a "Freddy Krueger mask" of which he was intensely frightened. He enjoyed visiting with his mother, however, and the foster mother stated that he counted the days until he could visit her again. He wet his bed frequently. He had recently been prescribed Ritalin. Christensen described the minor child as an impulsive, angry child with significant psychological problems, who was insecure and mistrusting, and who had not received a desirable degree of parental guidance, nurturing, and protection. Christensen concluded that the minor child suffered Post Traumatic Stress Disorder from exposure to aggression. Christensen recommended stable, consistent parenting, extreme reassurance, nurturing, and emotional support. He noted that the minor child became very upset when exposed to Partlow.

Partlow submitted to a substance abuse assessment on August 19, 2003. He reported that he had not drunk any alcohol since January 1, 2003 and had no problem with abuse of any substance, although two years ago he drank nearly every day. He described his vices as smoking cigarettes and being a workaholic, but related that many of his relatives, including his parents, aunts, uncles and siblings, suffered from either mental illness or alcoholism. He told the evaluator that he was being falsely accused of child abuse. No recommendations were made because Partlow reported no substance abuse problem.

Konecny submitted to a substance abuse assessment on September 17, 2003 pursuant to a recommendation from her parole officer and a court order. She stated that she had last used marijuana in May 2001, and had not been drunk for the past thirty days. She reported that she had no problem with any substances and did not need treatment, although all of her family members were alcoholics. She stated that she was treated for psychological difficulties at age eight, and currently experienced depression, anxiety, and trouble controlling her violent behavior, but did not feel that she needed treatment for these problems. Recommendations for Konecny were weekly AA meetings and individual counseling.

The initial disposition was held on September 2, 2003 and October 13, 2003. FIA caseworker Sheree Murray testified that Konecny and Partlow had already begun counseling with Virginia Norfolk from Community Mental Health, and while Konecny admitted that domestic violence and alcohol abuse were present, Partlow denied it. Partlow asserted that he was not yet able to work because of tendonitis, but Konecny was employed at an A&W. Konecny had been evicted, and the couple planned to reside together in the home of Partlow's mother. The FIA plan was for reunification, and Murray described the biggest task for Konecny as addressing her relationship with Partlow, of whom the minor child was terrified. Partlow's biggest task was to admit and work on rectifying his anger, alcohol abuse, and domestic violence issues. Murray noted that Konecny was very appropriate with the minor child at visits, and that

Partlow was attending a program called Alternatives to Violence. Konecny told Murray that she was receiving prenatal care for the child that was due in February 2004.

The minor child's counselor, Theresa Bryant, testified that she began counseling the minor child every other week on June 17, 2003, and had diagnosed him with Post Traumatic Stress Syndrome. A month after Bryant's diagnosis, Christensen's psychological evaluation also resulted in a diagnosis of Post Traumatic Stress Syndrome. An infant mental health specialist had already diagnosed the minor child with Reactive Attachment Disorder. He was hyper-vigilant and constantly on the lookout for persons entering the room, and tensed up anytime a voice was raised or if the other children in the foster home became rowdy. He was unable to play with other children without becoming angry and physically aggressive. The minor child was in his second foster home when Bryant first diagnosed him, and was removed almost immediately because he posed a danger to the other children in the home. On the first night in his third and final foster home, when the older children began roughhousing with one another, the minor child turned over the dresser, ripped down the blinds, punched a hole in the door, bit himself, banged his head, and scratched himself. Bryant attributed the minor child's extremely violent and self-mutilating behavior to the violence he had witnessed or experienced while living with Konecny and Partlow, and noted that he had exhibited the same destructive behaviors in the Head Start program before being removed from Konecny and Partlow.

When he began counseling in June 2003, the minor child could not be touched without flinching and drawing away, and always maintained a minimum of three feet of distance between himself and Bryant. He progressed to the point where he could sit next to her and allow some contact, and hug his foster mother when she left. His social skills had improved, and he was able to play with a few friends at school without difficulty. He wanted to visit with Konecny. However, on September 11, 2003, the minor child saw a truck in the parking lot of the FIA building, stated that it was his dad's truck, became very upset, and refused to enter the building until assured that Partlow was not present. Bryant recommended continued therapy for the minor child, continued suspension of visits with Partlow, and that Konecny and Partlow work on establishing a home with consistency and no physical aggression or physical discipline.

Konecny and Partlow's counselor, Virginia Norfolk, testified at the initial disposition that she began meeting weekly with them in April 2003. She had been a domestic violence counselor for seventeen years before becoming an outreach counselor for the past four years at Community Mental Health, and stated that Konecny and Partlow's situation was definitely one of domestic violence. Konecny reported in therapy that Partlow was controlling and that they were both physically aggressive toward one another. Partlow initially denied any violence and was evasive, until the last two sessions in which Norfolk used a different technique that allowed Partlow to better understand what was being asked of him. Norfolk described it as "the lightbulb went off" and Partlow was "finally getting this." Partlow now admitted that he hit the minor child as a form of discipline. Norfolk stated that both respondents had "definitely" made some progress, but "still had a ways to go." Partlow stated that he used to think it was funny to scare the minor child with the Freddy Krueger mask, but finally and reluctantly admitted that it may have been inappropriate, and had thrown the mask away. Norfolk stated that she believed Konecny and Partlow would remain committed to counseling because they strongly desired the minor child's return and would do whatever it took, as long as it took, to regain custody. However, Konecny and Partlow were planning to move to Jackson for employment.

The trial court adopted all of the FIA recommendations in its October 14, 2003 initial dispositional order, which required both Konecny and Partlow to participate in individual counseling, follow the recommendations of their psychological assessments, follow the recommendations of their substance abuse evaluations, obtain and maintain appropriate housing, participate in parenting classes, submit to random drug/alcohol screens, and maintain employment. In addition, Konecny was ordered to provide the FIA with documentation of prenatal care for her current pregnancy.

Konecny participated in prenatal care through Crisis Pregnancy Center from April 2003 through November 2003, and regularly attended her appointments and satisfactorily completed homework assignments. She attended five prenatal medical check-ups at Women's First Health Services in Jackson between October 2003 and February 2004. On October 8, 2003, Konecny and Partlow attended a parenting class intake session, and requested individual classes instead of a group format. However, Murray advised the parenting instructor that she would rather have them meet in a group. The group session was cancelled for lack of enrollment, and no other classes were offered that met their needs. Murray recommended that Konecny and Partlow find parenting classes in Jackson County when they moved.

Konecny gave the minor child a toy car at their November 26, 2003 visit, and stated that it was from Partlow. The minor child refused to sleep in the bedroom that night with the car in the room, said he was afraid of the car, insisted that it be removed, and returned it to Konecny at the next visit. Yet, according to Murray, Konecny and Partlow refused to believe that the minor child was fearful of his father, and said that Bryant and the foster mother were putting those thoughts in the minor child's head.

Konecny and Partlow relocated to Jackson but did not retain the jobs they had there, and Partlow became offended when Murray requested verification of a new job he claimed to have. Konecny did not provide verification of new employment she claimed to have, and provided verification of only one prenatal checkup in October 2003. Konecny and Partlow did not have a home of their own in Jackson, and did not immediately attend parenting classes. Konecny had difficulty with transportation because neither respondent had a valid driver's license, and she had children to visit in Jackson and Mt. Pleasant in addition to the minor child. Norfolk reported that Konecny and Partlow's last session with her was December 10, 2003, and that when she called in early 2004 to reschedule some missed sessions, Partlow told her it was a waste of time and money, and that he planned to save his money to get the minor child back after the court took away their parental rights.

Konecny and Partlow were not present for the January 12, 2004 review hearing. The FIA's updated service plan was admitted, which indicated that its goal was termination of parental rights, and the FIA requested authorization to file a petition. Bryant's updated counseling report indicated that the minor child still had some behavioral outbursts at home and in school, but had been prescribed medication to control them. Bryant's counseling report also noted a recent incident in which Konecny and Partlow unexpectedly encountered the minor child in the CMH waiting room and Partlow hugged the minor child, after which the minor child went into another room and cried on his foster mother's lap, took quite some time to calm down, and refused to leave after the session until assured that Konecny and Partlow were not in the outer room. The minor child asked the foster mother whether Partlow had hugged him because he was sorry for having hurt him.

Noting the “dismal failure on the part of both of these parents to engage in services and do anything,” the trial court authorized the FIA to file a termination petition. The FIA filed a petition on February 18, 2004, requesting termination pursuant to MCL 712A.19b(3)(g) and (j).

Konecny and Partlow’s baby, Triston Partlow, was born on February 16, 2004, and removed from their care on February 20, 2004, after Jackson County Protective Services filed a petition alleging the minor child’s wardship and Chase’s guardianship. The Jackson Circuit Court, Family Division, later assumed jurisdiction over Triston and made her a temporary court ward.

The termination hearing in the minor child’s case was scheduled to begin on March 15, 2004, but counsel for Partlow made a motion to withdraw due to a breakdown in the relationship with his client. The trial court granted counsel’s motion, and gave Partlow until March 22, 2004 to have a new attorney file a written appearance, or represent himself.

Konecny and Partlow became employed in early February 2004 as building subcontractors and began counseling with Ruth Genyk, a private licensed marriage and family therapist in Jackson, on March 23, 2004. They began participating in parenting classes at the Child and Parent Center and completed the series on April 22, 2004. Partlow completed thirteen of fourteen sessions of the Men’s Self Control Group through Partners in Change as a condition of probation in November 2003, and his participation was described as excellent.

The termination hearing commenced on April 19, 2004, and continued on April 26, 2004 and May 4, 2004. The trial court took judicial notice of the entire Konecny file. Bryant, the minor child’s counselor, reiterated the minor child’s diagnoses of Post Traumatic Stress Syndrome, Reactive Attachment Disorder, and ADHD, and testified that the minor child was not ready for reunification with Konecny and Partlow. She stated that the minor child’s disorders were the results of his living environment with Konecny and Partlow, and that he still suffered from symptoms. Loud voices and rowdy behavior still upset him, and he remained afraid of Partlow. He was able to form limited attachments, and was attached to his foster mother, who gave him security. He intentionally injured himself when the foster mother was out of town in March 2004.

Bryant stated that Konecny and Partlow cancelled an appointment to meet her due to inclement weather in December 2003, and no joint counseling had yet occurred between Konecny and Partlow and the minor child. Bryant stated that she would not recommend joint counseling unless Konecny and Partlow first acknowledged and understood the minor child’s emotional condition. The minor child had not mentioned either of respondents to Bryant since visits were suspended, and while Bryant believed he had some attachment to Konecny, it was not a strong, normal attachment. Bryant thought that severing the attachment with Konecny would be difficult for the minor child, but that he would recover from it without too much difficulty because his attachment to her was limited, and the loss would not be as difficult as the loss of a primary caregiver. Bryant testified that the minor child needed a very consistent, structured home, excellent parenting, and positive discipline. Bryant testified that the minor child needed counseling and ongoing psychiatric services for an extended time, and expressed concern about waiting too long for Konecny and Partlow to become able to parent because it would disrupt the limited attachments the minor child was forming. She opined that moving would be difficult for the minor child, and that his next move should be a permanent one.

FIA caseworker Murray testified that the report she had received from Konecny and Partlow's counselor, Ruth Genyk, indicated that Konecny and Partlow began counseling only after the minor child's termination hearing was scheduled to begin. Murray noted that Konecny's visits with her other children, Trinity and Chase, were supervised by protective services. Since the review hearing in January 2004, Murray had only one telephone conversation with Konecny, who asked Murray whether it would be too late in the minor child's case for her to separate from Partlow. Her only other contact with Konecny and Partlow was at Triston's adjudication, at which Konecny asked about the minor child's well being. Murray communicated with Konecny and Partlow's former counselor, Virginia Norfolk, who wanted Konecny to be evaluated for medication to help her manage her anger.

Murray testified that Konecny and Partlow had progressed in obtaining housing, but that their denial of the minor child's emotional state was still "a big issue." Murray was also concerned that substance abuse was still an issue because Genyk reported to her that Konecny appeared hung over at one session and Konecny had not followed through with a drug and alcohol screen that Genyk recommended. Genyk denied making these statements. A later screen was negative for alcohol or substances. Murray stated that Konecny had not participated in anger management or been evaluated for medication, but that these things had been ordered in Triston's case.

Murray testified that in January 2004 or February 2004, Konecny finally acknowledged the minor child's fear of Partlow. Since visits with Konecny and Partlow had stopped, Murray observed that the minor child was much calmer, quieter, and had fewer aggressive incidents; however, he remained quite vigilant, and in March 2004 was fearful that Partlow may be at a basketball game of one of the other foster children. A letter from the minor child's kindergarten teacher stated, "His emotional behavior has improved. Since the Wednesday visits with his birth parents have been terminated we no longer have that problem."

According to Murray, the Jackson trial court ordered similar services as had been ordered by the Midland trial court in this proceeding, and Konecny and Partlow's same issues were being addressed. Murray felt that the minor child would not be safe if returned to Konecny and Partlow because they were still in denial about how their living environment had affected the minor child. At Triston's adjudication in Jackson County, Murray overheard Partlow tell the Jackson County caseworkers that he was still not sure why the minor child had been removed from his care, and that he pleaded no contest to the petition in the minor child's case only because his attorney told him he would go to jail if he did not.

Murray concluded her testimony by stating that the minor child needed permanence and a safe, stable environment. She described the minor child's bonding or attachment to Konecny as "minute," and to Partlow as "minute or none." Murray had often discussed with Konecny the fact that it was unlikely that the minor child would be returned to her as long as she lived with Partlow because of the minor child's extreme fear of him. She did not feel that Konecny and Partlow could provide proper care or custody for the minor child within a reasonable time even though they loved him because of their past history of poor parenting, Konecny leaving her children with others, and Konecny and Partlow's disengagement from services from January 2004 to March 2004. In light of the fact that Partlow still did not know why the minor child had been removed, Murray believed that the minor child would be harmed if returned to Konecny and Partlow.

On cross-examination, Murray admitted that Konecny and Partlow completed psychological evaluations and substance abuse assessments. They attended counseling with Virginia Norfolk from March 21, 2003 to December 10, 2003, who indicated that Partlow had made progress addressing denial and understanding domestic violence and anger management. Norfolk reported that Konecny “became aware of her level of anger and reported using various techniques to defuse situations.” Murray admitted that Konecny and Partlow were currently engaged in counseling with Genyk, and that Partlow completed Partners in Change with excellent participation. Konecny engaged in prenatal services throughout her recent pregnancy, and both Konecny and Partlow requested parenting classes in Midland County and completed them in Jackson County. Konecny and Partlow had bought a trailer and were employed. Murray noted that Konecny had not attended AA meetings as recommended by her substance abuse assessment, but admitted that this was not required by the parent-agency agreement.

Genyk testified that Konecny and Partlow requested counseling services from her in early March 2004 pursuant to a referral by the Jackson County FIA in Triston’s case. She had conducted five sessions weekly with Konecny and Partlow thus far, and reported that they said they were willing to do anything necessary to regain custody of the minor child and Triston. Their participation was positive, and desire to improve was genuine. Genyk was concerned that Bryant had delayed joint counseling between the minor child and Konecny and Partlow, and said Bryant told her that their parental rights to the minor child should be terminated because of the minor child’s fear of Partlow. Genyk felt that there was a contradiction between paperwork Konecny and Partlow had provided indicating that they showed positive progress in treatment and the statements Murray and Bryant had made.

Genyk noted that Konecny and Partlow were fully complying with services in Jackson County, and that Partlow understood that the minor child was fearful of him because he had witnessed domestic violence in the past. Genyk felt that Partlow knew that both Konecny and Partlow’s actions around the minor child had been inappropriate, and that his anger and authoritarian style of parenting were problems. Konecny and Partlow had a two-hour session with Genyk with Triston present, and their parenting was “consistently appropriate.” Given the reports on visitation with Triston by the Jackson County Parent and Child Center, Genyk believed it was “extremely possible” that Konecny and Partlow could parent their children “with intensive supervision.”

The trial court issued a written opinion and order on June 8, 2004 terminating Konecny and Partlow’s parental rights under MCL 712A.19b(3)(g) and (j).

II. Termination Of Parental Rights

A. Standard Of Review

We review the trial court's findings of fact, and its determination regarding the child's best interests, for clear error.¹ A finding is clearly erroneous if, although there is evidence to

¹ MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made.²

B. Legal Standards

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence.³ If the petitioner establishes a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights, unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests.⁴

C. Applying The Standards

We conclude that the trial court did not clearly err in determining that the statutory grounds for termination of parental rights were established by clear and convincing evidence.⁵ The evidence showed that Konecny and Partlow had deep-seated personality traits that caused them to place their needs above the needs of the minor child. Konecny cared for the minor child until he was eighteen months old, and three protective services referrals for neglect were made during that time. She left him in the care of Partlow from age eighteen months to age four, and Community Mental Health provided services when it became apparent that Partlow needed parenting and mental health assistance. Partlow used fear as a disciplinary technique, terrorizing the minor child with bugs and a Freddy Krueger mask. Konecny gave birth to two children by different fathers while the minor child was in Partlow's care, and left these children in the care of others. Partlow's physical abuse of the minor child led to these proceedings. The minor child was placed in Konecny's sole care and the trial court ordered no contact between Partlow and the child. Konecny allowed contact in violation of a court order, and the child was removed to foster care. The child was diagnosed with post traumatic stress syndrome, attachment disorder, and ADHD, and he exhibited extreme fear of Partlow.

Although Konecny and Partlow complied with many aspects of their parent agency agreements, the evidence showed that a long-term investment in counseling was required before Konecny and Partlow would be able to appropriately parent the minor child. While there was a remote possibility that Konecny and Partlow would be able to properly parent the minor child someday if they consistently engaged in services over the long term, the standard is whether there was a reasonable expectation that this would occur. We conclude there was not. In light of Konecny and Partlow's lack of progress in services when the minor child was eighteen months old and again when he was four years old, Konecny's history of abandoning her children to the care of others, the intensive participation in counseling required before they could properly parent the minor child, their disengagement from services for three and a half months, and the minor child's intense fear of Partlow and his other special needs, the trial court did not clearly err

² *Id.*

³ *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993).

⁴ MCL 712A.19b(5); *In re Trejo*, *supra* at 353.

⁵ MCR 3.977(J); *In re Miller*, *supra* at 337.

in determining that there was no reasonable expectation that Konecny and Partlow would not be able to provide proper care or custody for the minor child within a reasonable time.

Similarly, the fact that Konecny and Partlow were not yet able to appropriately parent the minor child and had not yet adequately addressed the issues relating to their problematic personality traits, domestic violence, and substance abuse, established that the minor child would likely suffer harm if returned to them. It is clear that the minor child would require extensive counseling before he could even see Partlow, much less live with him.

Lastly, the evidence did not show that termination of Konecny and Partlow's parental rights was clearly not in the child's best interests.⁶ The evidence showed that the minor child was not attached to Partlow, and was only minimally attached to Konecny because of the abuse and neglect he had experienced with them. Konecny and Partlow did not value the minor child or make his needs a priority for the first four years of his life, and would not be able to appropriately parent him in the foreseeable future because they required modification of deep-seated personality traits. As a result, it was not clearly contrary to the child's best interests to terminate Konecny and Partlow's parental rights and allow him to bond permanently with new parents.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Kathleen Jansen

⁶ MCL 712A.19b(5); *In re Trejo*, *supra* at 356-357.